

## **SECTION 2 - DEFINITIONS**

For the purpose of this resolution the following words and terms as used herein are defined to mean the following:

Words used in the present tense include the future; words used in the singular number include plural; and words used in the plural number include the singular; the word "building" includes the word "structure"; the word "shall" or the word "must" is mandatory and not directory; the word "lot" includes the word "plot"; the term "used for" includes the meaning "designed for" or "intended for".

**ACCESSORY BUILDING OR USE:** A subordinate building or portion of the principal building, or a use customarily incident to and located on the lot occupied by the principal building or use of the property.

**ACCURATE BOUNDARY SURVEY:** The degree of accuracy required in the preparation of all plats. More specifically, a survey will have a closure accuracy of at least one part in 10,000 for lots and at least one part in 20,000 for a subdivision boundary survey.

**AGRICULTURE USE:** The use of a tract of land as a principal business enterprise for growing farm crops in the open, the raising of such stock and poultry as are incidental to the farming operation, dairying, pasturage, horticulture, floriculture, the raising of nursery stock and accessory uses, including the structures for carrying out agricultural operations and the residence of the persons, and their families, who own or operate the farm. The term "Agricultural Use" shall not include the following:

- a. Commercial greenhouses, nurseries and hydroponic farms with the exceptions that the growing of nursery stock and related items and the structures required for the growing of nursery stock are permitted.
- b. The feeding of garbage to animals, the raising of furbearing animals as a principal business use, or the operation of a Feed Lot as defined by the Statutes of the State of Kansas.

**ALLEY:** A public way which affords only a secondary means of access to abutting property.

**APARTMENT:** A room or suite of rooms within a structure arranged, intended, designed for, or used as the place of residence of a single family; such residence having a kitchen and/or one or more bathrooms for the exclusive use of the resident family.

**APARTMENT HOUSE:** A building arranged, intended, designed for, or occupied by more than two families; a multiple family dwelling.

**BASEMENT:** A story below the first story as hereafter defined.

BED AND BREAKFAST: An owner-occupied dwelling unit that contains no more than three guest rooms where lodging, with or without meals, is provided for compensation.

BLOCK: A piece or parcel of land entirely surrounded by public highways or streets.

BOARD OF ZONING APPEALS: The agency lawfully created and appointed by the Board of County Commissioners of Riley County, Kansas charged with duties connected with the hearing and deciding of appeals regarding the application of these regulations in accordance with the requirements herein and in conformance with the provisions of Kansas Statutes.

BOARDING HOUSE OR LODGING HOUSE: A building other than a hotel where lodging or meals are provided for five or more persons for compensation pursuant to previous arrangements on a weekly or monthly basis.

BORROW PIT: An excavated area where soil is removed for sale or use as fill at another location, exclusive of excavations or grading conducted on-site for construction of a permitted building, construction of a public road, installation of public utilities or construction of a farm pond or other agricultural structure.

BUILDING: Any covered structure permanently affixed to the ground intended for enclosure and sheltering of people, animals, property, or business activity.

CEMETERY: Land used for the burial of deceased humans and dedicated for cemetery purposes, excluding columbariums, crematoriums, mausoleums and mortuaries.

CENTRAL SEWERAGE SYSTEM: A facility which provides underground pipes for the collecting of wastes from a number of individual sources and the transporting of them to an off-site location for treatment and disposal.

CHILD CARE:

EXEMPT: Programs operating five (5) consecutive hours or less per week; irregular care for two - six consecutive hours on an unscheduled basis.

The following categories of child care programs are required to be permitted or licensed in accordance with applicable State or local health regulations:

LICENSED DAY CARE HOME: A facility giving regular care for less than 24 hours per day to a maximum of six children under Kindergarten age. This includes the family's own children in this age group and four additional children kindergarten age and over, with a maximum of ten (10) children including the provider's children.

GROUP DAY CARE HOME: A facility licensed to care for a maximum of twelve (12) children under 14 years of age.

REGISTERED FAMILY DAY CARE HOME: A licensed facility giving regular care for less than 24 hours per day to six (6) or fewer children away from the child's home. The total must include the family's own children under the age of 16, and may not include more than three (3) children under 18 months of age, including the family's own children in this age group.

CHILD CARE CENTER/PRESCHOOL: A licensed facility in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three (3) hours and less than 24 hours per day (including day time, evening, and night time care), or which provides before and after school care for school aged children. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations. For facility regulations see KSA 1982 Supp. 72-1107(C).

RESIDENTIAL CARE FACILITY: A licensed facility, defined by the State of Kansas as a 24 hour care facility, which provides care for one to ten plus children (See: Regulations for Licensing, State of Kansas). There are three types of residential care facilities: Family Foster Homes, Group Boarding Homes, and Residential Center. Family Foster Homes are exempt from these regulations. )

CHURCH - A building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services, meetings or other activities and accessory uses associated herewith. A "church" shall only mean a building which has been specifically constructed or adapted to a place of assembly and not a dwelling unit or commercial structure. Accessory uses shall be limited to the following rooms for religious instruction, assembly rooms, kitchen, library and/or parsonage.

COLLECTION CENTERS AND STORAGE FOR RECYCLABLE MATERIALS: Facilities for the public or private collection, indoor storage, separation, sorting and processing necessary for shipment of recyclable materials including and limited to the following:

-- Aluminum, bi-metal and plastic containers of 6 gallon capacity or less.

-- Paper and glass products.

Collection centers and storage for recyclable materials shall not include the processing, recycling or remanufacture of recyclable materials into new products for resale nor shall it in any way include the salvaging or recovery of materials from refuse. No materials shall be collected which are hazardous in nature or which have contained hazardous material as defined by Kansas Statute. Processing for shipment shall include only those operations which meet the use limitations of the zoning district. All activities and storage shall be wholly inside of a building, or buildings. Hours of operation shall be restricted to daylight hours only.

CONDITIONAL USE: A use stated within these regulations which may (or may not) be permitted by the Board of Zoning Appeals in accordance with the procedures and limitations established herein and in conformance with the provisions of the Kansas Statutes.

CURB LEVEL: The main level of the curb in front of the lot, or in case of a corner along the abutting street where the main curb level is the highest.

DWELLING, MULTIPLE: A building or portion thereof designed for or occupied as a home of three or more families or households living independently of each other.

DWELLING UNIT: One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by one family and which includes cooking space and lawful sanitary facilities reserved for occupants thereof.

EASEMENT: A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

EXCEPTION: A use stated within these regulations which may (or may not) be permitted by the Board of Zoning Appeals in accordance with the procedures and limitations established herein and by the Kansas Statutes.

FAMILY: Any number of individuals living together as a single housekeeping unit, as distinguished from a group occupying a boarding house, fraternity house or sorority house, lodging house, or hotel.

FARM STRUCTURE: Any structure necessary for normal farming operation or agriculture uses; such structures not being subject to the provisions of these regulations.

FLOODPLAIN: Land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of one percent.

FRATERNITY OR SORORITY: A building housing the members of a fraternity or sorority group living together under cooperative arrangements as distinguished from a boarding or lodging house or club.

GARAGE, PRIVATE: An accessory building for storage only of motor vehicles.

GRADE: The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

HEIGHT OF BUILDING: The vertical distance above "Grade", defined above, to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The measurement may be taken from the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

HOTEL OR MOTEL: A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, and recreation facilities.

INDIVIDUAL STORAGE FACILITY: One or more structures, each structure containing four or more compartments which are leased or rented for the purpose of storage by non-residents of the site upon which the structure is located; each storage compartment having its own exterior entrance and without interior passageways to other adjacent compartments. Such structure shall not be made up in whole or in part of a structure originally designed, built or intended for residential use, nor shall any structure be within 20 feet of any other structure. Individual Storage Facilities shall be limited to storage compartments no more than 600 square feet of floor area per compartment with the maximum compartment floor dimension in any direction not exceeding 35 feet.

KENNEL: Any place where six or more dogs more than one year old are housed, groomed, bred, boarded, trained, or sold.

LOT AREA: The area of a horizontal plane bounded by the front, side, and rear lot lines.

LOT OF RECORD: A lot which is a part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations.

LOT, CORNER: A lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the County Zoning Officer.

LOT (ZONING LOT): A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit under single ownership. Multiple platted lots may be combined and considered a single lot for zoning purposes if developed as a unit by one owner. Under these circumstances, platted lot lines may be disregarded but easements must be vacated before building will be allowed.

LOT COVERAGE: The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, including projecting roof eaves.

LOT DEPTH: The main horizontal distance from the front street to the rear line measured from their mid-points.

LOT, FLAG: A lot, the main use or building area of which does not abut a public street, but which is connected thereto by a narrow strip of land which is a part of the lot.

LOT, INTERIOR: A lot whose side lines do not abut upon any street.

LOT, THROUGH: An interior lot having frontage on two streets.

LOT LINES: The lines bounding a lot as defined herein.

LOT LINE, SIDE: Any boundary line not a front or rear line thereof. A side line may be a part lot line, a line bordering on an alley of place, or a side street line.

LOT LINE, REAR: The boundary line which is opposite and most distant from the front street line; except that in a case of uncertainty the Zoning Administrator shall determine the rear line.

LOT WIDTH: The main horizontal distance between side lines measured at right angles to the depth at the building setback line.

MANUFACTURED HOME: A factory-built dwelling unit bearing a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act of 1974 which became effective June 15, 1976 (42 U.S.C. 5403). Manufactured home does not include mobile home.

MANUFACTURED HOME, RESIDENTIAL-DESIGN: A manufactured home on a solid concrete or reinforced concrete block perimeter foundation which has:

A minimum of 22 body feet in width excluding porches, decks, awnings, carports, attached garages or similar additions.

A pitched roof having a minimum slope of 2.5 inches in 12 inches.

Siding and roofing materials which are customarily used on site-built homes.

MINE: (1) A cavity in the earth from which minerals and ores are extracted; (2) The act of removing minerals and ores.

MOBILE HOME: A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Home Construction and Safety Standards Act of 1974 which became effective June 15, 1976 (42 U.S.C. 5403).

MOBILE HOME PARK: An area planned for the use of Mobile Homes as dwellings and as defined and regulated by the "Resolution Governing Mobile Home Parks in Riley County, Kansas."

**MODULAR HOME:** A residential structure, assembled in total or in several sections at a factory, and transported over the road by truck to its destination. A modular home, as distinct from a mobile home, shall have exterior building materials and appearance similar to the customary single family structures in the neighborhood, and shall be permanently situated on a concrete slab or foundation.

**NON-CONFORMING USE, BUILDING OR YARD:** One that does not, by reason of design or use, conform to the regulations of the zone in which it is located.

**ON-SITE SEWERAGE SYSTEM:** A facility which provides for the collection and disposal of wastes from a single source, such facility being located on the same lot as the source.

**PERMITTED USE:** A rightful use established by these regulations which cannot be denied nor refused within a zoning district where such use is established.

**PET CEMETERY:** Land used for the burial of deceased animals and dedicated for cemetery purposes, excluding columbariums, crematoriums, mausoleums and mortuaries.

**PLANNING COMMISSION OR BOARD:** The body or bodies lawfully created and appointed by the Board of County Commissioners of Riley County, Kansas charged with the planning and regulation of development within the unincorporated portion of Riley County in accordance with the requirements herein and in conformance with the provisions of the Kansas Statutes.

**PRINCIPAL BUILDING:** A structure in which the principal use of the lot on which the structure is located is conducted.

**PRIVATE AIRCRAFT LANDING FACILITY:** Facilities including but not limited to landing and take-off areas, maintenance and storage buildings used solely for the operation, storage and incidental maintenance of private aircraft for non-commercial purposes.

**PUBLIC SEWERAGE SYSTEM:** A sewerage system that is used for domestic purposes by two or more families or is made available for domestic use by the general public.

**PUBLIC WATER SUPPLY:** A water supply that is used for domestic purposes by two or more families or is made available for domestic use by the general public.

**QUARRY:** A place where rock, ore, stone, shale, sand, gravel and similar materials are excavated, as an industrial operation, for sale or for off-tract use, exclusive of excavations or grading necessary for construction of a permitted building, construction of a public road, installation of public utilities or construction of a farm pond or other agricultural structure. The term “quarry” shall include the terms “sand pit” and “gravel pit”.

**REGULATORY FLOOD:** A flood having a chance occurrence in any one year of 1%.

**SEXUALLY ORIENTED BUSINESS:** means an adult bookstore / adult video store, an adult cabaret, an adult motel, an adult motion picture theater, a semi-nude model studio, and a sexual encounter center, which are defined as follows:

- a. “*Adult Bookstore / Adult Video Store*” means a commercial establishment which has a significant or substantial portion of its stock-in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas.”

The term “Adult Bookstore / Adult Video Store” shall also include a commercial establishment which regularly maintains one or more “Adult Arcades.” “Adult Arcade” means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing “specified sexual activities” or “specified anatomical areas.”

- b. “*Adult Cabaret*” means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear “semi-nude.”
- c. “*Adult Motel*” means a motel, hotel, or similar commercial establishment which:
  - (1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on-premises or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
  - (2) offers a sleeping room for rent for a period of time that is less than 10 hours; or
  - (3) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.
- d. “*Adult Motion Picture Theater*” means a commercial establishment where films, motion



pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition of “specified sexual activities” or “specified anatomical areas” are regularly featured and shown for any form of consideration. “Adult Motion Picture Theater” shall also include an “Adult movie house.” “Adult movie house” means any movie theater which on a regular, continuing basis shows films rated “X” by any national or international motion picture rating association, or any movie theater which on a regular, continuing basis shows films characterized by an emphasis upon the exhibition of “specified sexual activities” or “specified anatomical areas.”

- e. “*Semi-Nude Model Studio*” means a commercial establishment which regularly features a person or persons who appears semi-nude and is provided to be observed, sketched, drawn, painted, sculptured or photographed by other persons who pay money or any form of consideration, but shall not include a college, community college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely or partly by taxation; or in a structure: 1) that has no sign visible from the exterior of the structure and no other advertising that indicates that a person will be displaying “specified anatomical areas”, or 2) where in order to participate in a class a student must enroll at least three days in advance of the class.
- f. “*Sexual encounter center*” shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration:
  - (1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - (2) physical contact between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.

Other definitions are as follows:

- g. “*Distinguished or Characterized by an Emphasis Upon*” means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas,” the films so described are those whose dominant or principal character and theme are the exhibition or description of “specified anatomical areas” or “specified sexual activities.”
- h. “*Nudity or a State of Nudity*” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

- i. “*Operate or Cause to Operate*” shall mean to cause to function or to put or keep in a state of doing business. “Operator” means any persons on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.
- j. “*Person*” shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.
- k. “*Regularly Features, Regularly Maintains, or Regularly Shown*” means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered or held out to the public as a part of the ongoing business carried on within the premises.
- l. “*Semi-Nude or State of Semi-Nudity*” means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.
- m. “*Specified Anatomical Areas*” means and includes:
  - (1) Less than completely and opaquely covered: human genitals; pubic region; buttock; and female breast below a point immediately above the top of the areola; and
  - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- n. “*Specified Sexual Activity*” means any of the following:
  - (1) sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or
  - (2) excretory functions as a part of or in connection with any of the activities described in (1) above.

**SOIL:** All unconsolidated mineral and organic material of whatever origin that overlies bedrock and can be readily excavated.

**STABLE, PRIVATE:** An accessory building with capacity for not more than two horses which are not for hire.

STABLE, PUBLIC: A stable other than a private stable as defined herein.

STORY: The portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be the portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than 6 feet above grade, as defined herein, for more than 50% of the total perimeter or is more than 12 feet above grade at any point, such basement, cellar or unused under-floor space shall be considered as a story.

STREET: A public street or thoroughfare or place which affords principal means of access to property abutting thereon.

STREET LINE: A dividing line between the street and the abutting property.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

STRUCTURE: Anything constructed or erected with a fixed location on the ground; including buildings, walls, signs, towers and bins.

SUBDIVISION: The dividing of any land into two or more lots or tracts either of which contains less than 20 acres.

TRAILER HOUSE: Same as Mobile Home

UNDUE RESTRICTION OF THE REGULATORY FLOOD: A restriction or blocking of the conveyance of floodwater on a floodplain created by structures or fill which, when occupied with an assumed equal conveyance reduction on the opposite side of the floodplain, results in an increase in the height of the Regulatory Flood of more than 1 foot.

VARIANCE: A modification to a certain specified part of these regulations which may (or may not) be granted by the Board of Zoning Appeals in accordance with the procedures and limitations established herein and by the Kansas Statutes.

VISION CLEARANCE: An open triangular (unoccupied) space at the street corner or corner lot, the space being defined by a setback line located by specified distances measured along the property lines from the street corner of the lot.

WHOLESALE OUTLET:\*\* Business offering merchandise on a wholesale and/or retail basis having a turnover of inventory every 45 days or less. Does not include dead storage warehouse.

WIND ENERGY CONVERSION SYSTEMS, COMMERCIAL: A wind driven machine that converts wind energy into electrical power for the primary purpose of sale, resale or off-site use.

WIND ENERGY CONVERSION SYSTEMS, NONCOMMERCIAL: A wind driven machine, less than 150 feet in height, that converts wind energy into electrical power for the primary purpose of on-site use and not for commercial power production.

YARD, FRONT: An open space, unoccupied by buildings or structures (except as hereinafter provided) across the full width of the lot extending from the front line of the building to the front property line (right-of-way line of the road or street).

YARD, SIDE: An open space, unoccupied by buildings or structures (except as provided herein), extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

YARD, REAR: An open space, unoccupied (except as provided herein), between the side lot lines and extending from the rear line of the principal building to the rear lot line.

YARD DEPTH, REAR: The minimum horizontal distance from the rear line of the principal building to the rear lot line.

ZONING OFFICER: The person designated by the Board of County Commissioners to carry out the detailed provisions of these regulations as specified herein and as directed by the County Planning Board.

**\*\*Applies to jurisdictional area of the Manhattan Urban Area Planning Board only.**